

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LATANYA RICHARDSON,

Plaintiff,

v.

HONOR FINANCE, LLC,

Defendant.

OPINION & ORDER

17-cv-354-jdp

Plaintiff Latanya Richardson moves to dismiss this action under Federal Rule of Civil Procedure 41(a)(2) without prejudice. Dkt. 16. Defendant Honor Finance, LLC, opposes, contending that the dismissal should either be with prejudice or that Honor Finance should be compensated for its litigation effort so far. Dkt. 18.

This court has the discretion to impose whatever terms and conditions it deems necessary to offset the prejudice defendant may otherwise suffer from a dismissal without prejudice. *LeBlang Motors, Ltd. v. Subaru of Am., Inc.*, 148 F.3d 680, 685 (7th Cir. 1998). But before dismissing the case on its own terms, the court must give the plaintiff a chance to withdraw the motion. *Babcock v. McDaniel*, 148 F.3d 797, 799 (7th Cir. 1998).

This case is at a relatively early stage. But Honor Finance has incurred some expenses in defending it. And this is the second litigation involving these parties, as it is related to a state-court repossession case. So the court will give Richardson three choices: (1) dismiss the case with prejudice; (2) dismiss the case without prejudice, but pay Honor Finance's *actual* attorney fees and costs; or (3) withdraw the motion.

Richardson must respond to this order by November 21. If Richardson fails to respond, the court will dismiss the action with prejudice. If Richardson chooses the second option, the

parties should attempt to stipulate to Honor Finance's attorney fees and costs. But if that attempt fails, Honor Finance should submit a properly documented request for fees and expenses, due within two weeks of Richardson's response to this order.

Entered November 15, 2017.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge